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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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OCT - 4 2004

Federal Communication Commission  
Bureau/Office

In the Matter of

)

)

Amendment of Section 73.202(b)

)

MB Docket No. 04-318

Table of Allotments

)

FM Broadcast Stations

)

RM No. - 11040

(Culebra, Puerto Rico)

)

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To: Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau

OCT - 7 2004

Federal Communications Commission  
Office of the Secretary

**PETITION FOR RULE MAKING**

La Gigante Radio Corporation ("Petitioner"), permittee and operator by Special Temporary Authority ("STA") of Station WXYZ-FM (the "Station"), by its counsel, hereby submits its Comments in response to the Commission's Notice of Proposed Rule Making ("NPRM"), released August 12, 2004, DA 04-2500, proposing to amend the FM Table of Allotments by substituting Channel 291A for the currently allotted Channel 254A at Culebra, Puerto Rico and deleting the allotment of Channel 291B at Vieques, Puerto Rico. These changes in the FM Table of Allotments would enable Petitioner to obtain a permanent authorization for Culebra's first local service.

1. At paragraph 4 of the NPRM, the Commission states that if an expression of interest is shown in the vacant Vieques allotment at Channel 291B, then that vacant allotment would be retained for future auction. In that case, Petitioner's requested substitution of Channel 291A for Channel 254A at Culebra could not be granted. While reserving the right to question whether such an outcome would be appropriate under FCC rules and precedent, Petitioner would like to advance a solution that would enable an allotment to remain at Vieques as that community's

first local service, while also enabling the requested channel substitution at Culebra to take place so that Petitioner can obtain a permanent authorization for the facility that has been constructed and providing first local service to Culebra for over six years.

2. As an initial matter, Petitioner would like to clarify the nature of Vieques as a community for allotment purposes. Vieques is an island approximately ten miles off the coast of the main island of Puerto Rico. The island itself is a “municipio,” one of 78 such entities within the Commonwealth of Puerto Rico. The U.S. Census Bureau defines a municipio as “the government unit that is the primary legal subdivision of Puerto Rico; the census bureau treats the municipio as the statistical equivalent of a county.”<sup>1</sup> Within each municipio are “zonas urbana.” According to the U.S. Census Bureau, “a zona urbana represents the governmental center of a municipio (which is the equivalent of a county). Zonas urbana are treated as Census Designated Places (“CDPs”), as there are no incorporated places in Puerto Rico.”<sup>2</sup> Thus, allotments in Puerto Rico should be made to zonas urbana and not municipios, just as allotments in the United States are made to communities, like Bethesda and Silver Spring, as opposed to counties like Montgomery County.

3. The zona urbana for the municipio of Vieques is Isabel Sagunda, founded in 1843 and named for Queen Isabel II of Spain whose reign started in that same year. The city is the major port city for the island, and houses all of the Vieques government offices. The U.S. Census refers to Isabel Segunda (or “Isabel II”) as the Vieques Zona Urbana.<sup>3</sup> According to the 2000 U.S. Census, the municipio had a population of 9,106 and the zona urbana had a population of 2,136.

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<sup>1</sup> See Exhibit 1 from [www.census.gov/popest/municipios/index.html](http://www.census.gov/popest/municipios/index.html).

<sup>2</sup> See Exhibit 2 from Census 2000 data.

<sup>3</sup> See Exhibit 3, extracted from U.S. Census data from the official 2000 U.S. Census at

4. In the event that a party files comments in this proceeding expressing an interest in the vacant Vieques allotment, the engineering exhibit attached hereto demonstrates that at reference coordinates 18-08-34 N. Latitude and 65-18-22 W. Longitude, Channel 254A can be allotted to the community of Isabel Segunda and provide a 70 dBu signal over the entire community of license, while allowing the allotment of Channel 291A to Culebra.<sup>4</sup> The Channel 254A allotment to Isabel Segunda would provide a first local service to the primary community in the Vieques municipio, and the allotment of Channel 291A to Culebra would provide a permanent allotment for that community's first local service.<sup>5</sup>

5. The question of whether or not the requested Culebra channel change has to be abandoned if there is an expression of interest in the Isabel Segunda (Vieques zona urbana) allotment does not have to be reached. Channel 254A can be substituted for Channel 291B at Vieques/Isabel Segunda, and Channel 291A can be substituted for Channel 254A at Culebra. This will result in permanent allotments that will provide two local services, one existing and one to be built.

6. Petitioner hereby states that if the Commission approves the requested allotment of Channel 291A at Culebra, Puerto Rico, Petitioner will submit an application for a construction permit specifying a transmitter site which provides principal community coverage to the Culebra zona urbana and, if its application is granted, construct the facility.

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<http://www.census.gov/census2000/states/pr.html>.

<sup>4</sup> Petitioner is confident that the current 291B allotment at Vieques is intended to be an allotment to the Vieques zona urbana (also known as Isabel Segunda) and not to the Vieques municipio. To prevent confusion, Petitioner suggests that the Commission, as an administrative correction, change the name of the allotment community from Vieques to Isabel Segunda, since the Vieques zona urbana and the city of Isabel Segunda are one and the same.

<sup>5</sup> By comparison, Culebra is a much smaller island that is also a municipio. The main community of the Culebra municipio is the Culebra zona urbana, so again, the allotment to Culebra is to the zona urbana and not the municipio.

WHEREFORE, Petitioner respectfully requests that the Commission grant its Petition for Rule Making and substitute Channel 291A for Channel 254A at Culebra so that Petitioner can obtain a permanent authorization for its operation of Station WXZX-FM which presently provides first local service to Culebra.

Respectfully submitted,

**LA GIGANTE RADIO CORPORATION**

By: 

Scott C. Cinnamon  
Law Offices of Scott C. Cinnamon, PLLC  
1090 Vermont Ave., N.W.  
Suite 800, #144  
Washington, D.C. 20005  
(202) 216-5798

Its Counsel

October 4, 2004

U.S. Census Bureau

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Exh. 1

## puerto rico municipios

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The Census Bureau publishes estimates of total population and demographic components of change (births, deaths, and migration) for the Commonwealth of Puerto Rico and its 78 municipios. A municipio is the government unit that is the primary legal subdivision of Puerto Rico; the Census Bureau treats the municipio as the statistical equivalent of a county. The reference date for Puerto Rico estimates is July 1.

More detailed estimates and projections for Puerto Rico may be found in the Census Bureau's International Data Base.



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Census 2000 PHC-T-5. Ranking Tables for Incorporated Places of 100,000 or More: 1990 and 2000  
 Table 1. Incorporated Places of 100,000 or More in Alphabetic Sort, with 1990 and 2000 Population, and  
 Numeric and Percent Change: 1990 to 2000

Source: U.S. Census Bureau

Internet Release date: April 2, 2001

Note: 1990 Census population counts are as published in 1990 census reports and do not include changes published subsequently due to boundary or other changes. In Puerto Rico, a zona urbana represents the governmental center of a municipio (which is the equivalent of a county). Zonas urbanas are treated as Census Designated Places, as there are no incorporated places in Puerto Rico. See additional documentation at bottom of table.

For information on confidentiality protection, sampling error, nonsampling error, and definitions, see  
<http://factfinder.census.gov/home/en/datanotes/expplu.html>.

Place Name	Area	Population		Change, 1990 to 2000	
		April 1, 2000	April 1, 1990	Number	Percent
Abilene city	TX	115,930	106,654	9,276	8.7
Akron city	OH	217,074	223,019	-5,945	-2.7
Albuquerque city	NM	448,607	384,736	63,871	16.6
Alexandria city	VA	128,283	111,183	17,100	15.4
Allentown city	PA	106,632	105,090	1,542	1.5
Amarillo city	TX	173,627	157,615	16,012	10.2
Anaheim city	CA	328,014	266,406	61,608	23.1
Anchorage municipality <sup>1</sup>	AK	260,283	226,338	33,945	15.0
Ann Arbor city	MI	114,024	109,592	4,432	4.0
Arlington city	TX	332,969	261,721	71,248	27.2
Arvada city	CO	102,153	89,235	12,918	14.5
Athens-Clarke County <sup>2</sup>	GA	101,489	45,734	55,755	121.9
Atlanta city	GA	416,474	394,017	22,457	5.7
Augusta-Richmond County <sup>3</sup>	GA	199,775	44,639	155,136	347.5
Aurora city	CO	276,393	222,103	54,290	24.4
Aurora city	IL	142,990	99,581	43,409	43.6
Austin city	TX	656,562	465,622	190,940	41.0
Bakersfield city	CA	247,057	174,820	72,237	41.3
Baltimore city	MD	651,154	736,014	-84,860	-11.5
Baton Rouge city	LA	227,818	219,531	8,287	3.8
Bayamon zona urbana	Puerto Rico	203,499	202,103	1,396	0.7
Beaumont city	TX	113,866	114,323	-457	-0.4
Bellevue city	WA	109,569	86,874	22,695	26.1
Berkeley city	CA	102,743	102,724	19	0.0
Birmingham city	AL	242,820	265,968	-23,148	-8.7
Boise City city	ID	185,787	125,738	60,049	47.8
Boston city	MA	589,141	574,283	14,858	2.6
Bridgeport city	CT	139,529	141,686	-2,157	-1.5
Brownsville city	TX	139,722	98,962	40,760	41.2
Buffalo city	NY	292,648	328,123	-35,475	-10.8
Burbank city	CA	100,316	93,643	6,673	7.1
Cambridge city	MA	101,355	95,802	5,553	5.8
Cape Coral city	FL	102,286	74,991	27,295	36.4
Carolina zona urbana	Puerto Rico	168,164	162,404	5,760	3.5

# Exh. 3

Geographic area	Population	Housing units	Area in square miles				Density per square mile of land area		
			Total area	Water area	Land area	Population	Housing units		
Vieques comunidad, Loíza Municipio			4,325	1,403	0.34	0.00	0.34	12,579.2	4,080.6
Vieques zona urbana, Vieques Municipio			2,136	1,099	0.49	0.00	0.49	4,337.3	2,231.6
Villalba zona urbana, Villalba Municipio			4,388	1,365	1.27	0.00	1.27	3,466.7	1,078.4
Yabucoa zona urbana, Yabucoa Municipio			6,636	2,534	1.14	0.00	1.14	5,801.7	2,215.4
Yauco zona urbana, Yauco Municipio			19,609	7,452	2.87	0.00	2.87	6,835.3	2,597.6
Yaurel comunidad, Arroyo Municipio			1,468	539	1.21	0.00	1.21	1,214.4	445.9

* Esperanza comunidad, Vieques Municipio			1,092	535	1.30	0.01	1.30	842.4	412.7
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Geographic area	Population	Housing units	Area in square miles			Density per square mile of land area	
			Total area	Water area	Land area	Population	Housing units
Vieques Municipio	9,106	4,388	263.98	213.15	50.83	179.2	86.3

TECHNICAL COMMENTS  
MM Docket No. 04-318  
To Add Channel 291A  
Culebra, Puerto Rico  
October 2004

These Technical Comments are filed on behalf of La Gigante Radio Corporation, Petitioner in MB Docket No. 04-318, RM-11040 to add Channel 291A to Culebra, Puerto Rico. In order for Channel 291A to be available for use in Culebra, the allocation of 291B at Vieques, Puerto Rico must be deleted. As a substitute for this vacant allocation, La Gigante proposes to allocate Channel 254A to Isabel Sagunda on the Island of Vieques.

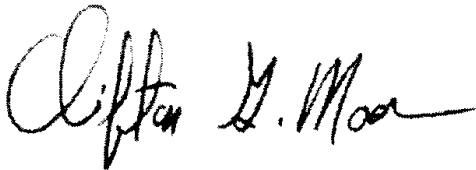
The allocation reference for Channel 254A is : 18 08 34 North Latitude and 65 18 22 West Longitude. All allocation constraints are met or exceeded from this location (see Exhibit A). From this location all of the city of Isabel Segunda is within the 70 dBu class maximum contour from the allocation reference site. The proposed station is not a part of any urbanized area.

Due to the fact that the one time proposed allocation of 291B at Vieques has never been on the air, there is no loss area. However when the coverage areas of 291B at Vieques and 254A at Isabel Sugunda are compared, 100% of the area served by 291B and not served by 254A is already served by five or more stations.



This proposed allocation to Isabel Sugunda is available to any member of the public who might voice continuing interest in the Vieques allocation (Paragraph 4 of NPRM, MB Docket No. 04-318).

All information contained herein is thought to be true and correct to the knowledge of the undersigned.

A handwritten signature in black ink, appearing to read "Clifton G. Moor". The signature is fluid and cursive, with the first name "Clifton" being more prominent and the last name "Moor" following in a similar style.

---

Clifton G. Moor  
Technical Consultant  
Bromo Communications, Inc.

October 4, 2004

Bromo Communications, Inc.  
Atlanta, Georgia

EXHIBIT A

Isabel Sungunda  
Island of Vieques

REFERENCE

18 08 34 N

65 18 22 W

CLASS = A

PR & VI Spacings

Channel 254 - 98.7 MHz

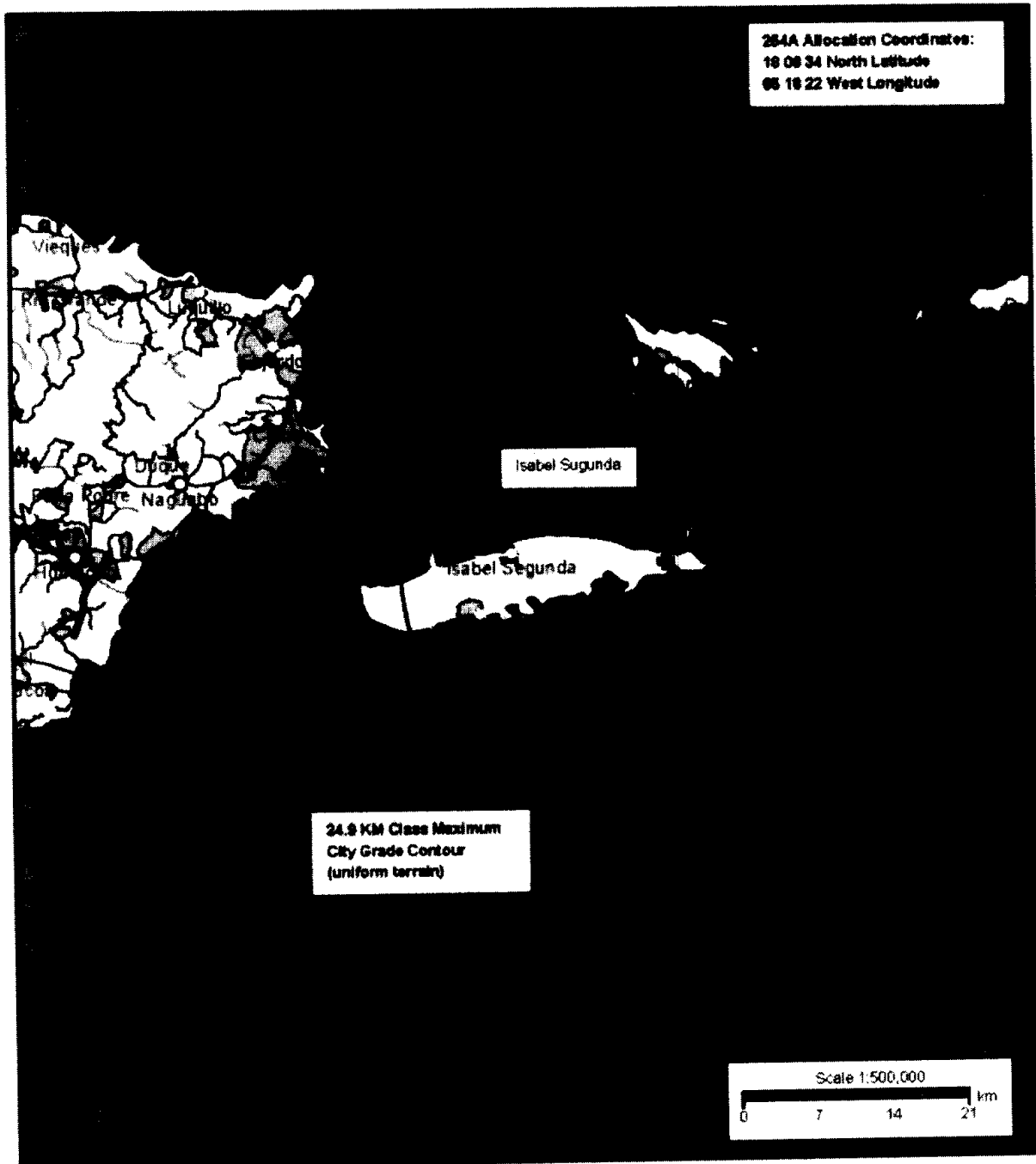
DISPLAY DATES

DATA 09-25-04

SEARCH 10-04-04

Call	Channel	Location	Dist	Azi	FCC	Margin
RDEL	DEL 254A	Culebra	PR 19.84	1.9	115.0	-95.16
WXZX.C	CP 254A	Culebra	PR 19.84	1.9	115.0	-95.16
WSAN	LIC 255B	Las Piedras	PR 20.45	1.4	113.0	-92.55*
WPRMFM	LIC 253B	San Juan	PR 79.00	267.7	113.0	-34.00*
RS254	RSV 254B	Mayaguez	PR 178.04	270.6	178.0	0.04
RS256	RSV 256B	San Juan	PR 79.00	267.7	69.0	10.00
AL257	VAC 257A	Charlotte Amalie	VI 43.01	56.3	31.0	12.01
WSAN.C	CP -Z 252A	Las Piedras	PR 59.81	284.8	31.0	28.81
WMYP	LIC-N 252A	Frederiksted	VI 66.25	131.4	31.0	35.25
WCRP	LIC-D 201B	Guayama	PR 79.02	267.7	15.0	64.02
WUKQFM	APP 253B	Mayaguez	PR 178.04	270.6	113.0	65.04
950907	APP-N 251A	Santa Isabel	PR 108.95	263.8	31.0	77.95
RS253	RSV 253B	Mayaguez	PR 191.10	271.8	113.0	78.10
950907	APP-N 251A	Santa Isabel	PR 109.24	264.7	31.0	78.24
950901	APP 251A	Santa Isabel	PR 113.41	260.7	31.0	82.41
950907	VAC 251A	Santa Isabel	PR 114.16	260.5	31.0	83.16
950908	APP 251A	Santa Isabel	PR 118.16	261.1	31.0	87.16
950907	APP-N 251A	Santa Isabel	PR 120.95	265.3	31.0	89.95
WUKQFM	LIC 256B	Mayaguez	PR 178.04	270.6	69.0	109.04

\* WSAN, Las Piedras and WPRM, San Juan are ordered to new channels in MM Docket No. 91-259.



**Exhibit B**  
**Technical Comments**  
**MM Docket No. 04-318**  
**To Add Channel 291A**  
**Culebra, Puerto Rico**

**Bromo Communications, Inc.**  
Atlanta, Georgia  
September 2004

**CERTIFICATE OF SERVICE**

I, Scott C. Cinnamon, do certify that I have on this 4th day of October, 2004, caused to be mailed by first class mail, postage prepaid, copies of the foregoing "Comments" to the following:

John A. Karousos, Assistant Chief \*  
Audio Division, Media Bureau  
Federal Communications Commission  
c/o Natek, Inc.  
236 Massachusetts Ave., N.E., Suite 110  
Washington, D.C. 20002

Sharon P. McDonald  
Audio Division, Media Bureau  
Federal Communications Commission  
c/o Natek, Inc.  
236 Massachusetts Ave., N.E., Suite 110  
Washington, D.C. 20002

James L. Oyster, Esq.  
Law Offices of James L. Oyster  
108 Oyster Lane  
Castleton, VA 22716-9720

  
\_\_\_\_\_  
Scott C. Cinnamon

\* - by hand delivery